

REMARKS

Claims 16-22 are presented for consideration, with Claim 16 being independent.

An editorial change has been made to the specification. In addition, the abstract has been replaced to better set forth the technical aspects of Applicant's invention. Claims 1-15 have been cancelled and replaced with Claims 16-22. Support for the new claims can be found beginning on page 9, line 3 of the specification.

Initially, Claim 2 was rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. This rejection is deemed to be moot in view of the cancellation of Claim 2.

Claims 1 and 15 stand rejected under 35 U.S.C. §103 as allegedly being obvious over Tomimatsu '254 in view of Hironori (JP '696). The remaining claims stand rejected as allegedly being obvious over Tomimatsu in combination with one or more secondary citations to Shigeo (JP '405), Hironori, Toshihiro (JP '946) and Miller '457. Without conceding the propriety of these rejections, Claims 1-15 have been cancelled. These rejections are therefore deemed to be moot and should be withdrawn.

It is further submitted that new Claims 16-22 are patentable over the cited art.

Applicant's invention as set forth in Claim 16 relates to a sample processing apparatus comprised of a probe, probe moving means for moving the probe such that the probe is brought into contact with a part of a sample, adhering means for adhering the probe to the part of the sample, and ion beam generation means for irradiating the sample with an ion beam to

separate the part of the sample from a remaining body of the sample. In addition, temperature controlling means controls temperatures of the probe and the sample individually to prevent a temperature change of the part of the sample when the probe is brought into contact with the part of the sample and when the sample is irradiated with an ion beam by the ion beam generation means.

The primary citation to Tomimatsu relates to a method and apparatus for fabrication of a specimen, and includes a probe for conveying a specimen, such as semiconductor wafer, to be observed.

The secondary citation to Hironori relates to a probe microscope and is relied upon for teaching temperature control means for controlling a temperature of a probe. In this regard, a temperature control part 45 controls a heating and cooling mechanism 50 to regulate the temperature of a measuring mechanism 30.

The secondary citation to Shigeo relates to a sample cooling device and is relied upon for temperature control means for regulating a sample.

The secondary citation to Toshihiro relates to a temperature regulating device and is relied upon for teaching a third temperature control means for controlling a temperature of a sample table.

Finally, the Miller patent relates to a thermostat control system and is relied upon for its teaching of detecting the temperature of a sample and displaying the temperature.

Collectively, the art fails to teach or suggest, among other features, temperature controlling means for controlling temperatures of the probe and the sample individually to

prevent a temperature change of the part of the sample when the probe is brought into contact with it and when the sample is irradiated with an ion beam, as set forth in Applicant's Claim 16. This feature of Applicant's invention, as discussed, for example, beginning on page 24, line 9, *et. seq.*, helps to provide a high performance sample processing apparatus.

Accordingly, it is submitted that Applicant's invention as set forth in independent Claim 16 is patentable over the cited art. In addition, dependent Claims 17-22 set forth additional features of Applicant's invention. Independent consideration of the dependent claims is respectfully requested.

In view of the foregoing, reconsideration and allowance of this application is deemed to be in order and such action is respectfully requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

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